

**REMARKS**

Claims 1-30 are currently pending. No amendments have been made.

Applicants acknowledge the Office's withdrawal of the rejection under 35 U.S.C. §102 of claims 1, 3-10, 12-19, 21-23, and 25-30 in the Response to Arguments section of the present Office action. It is noted, however, that in the previous (final) Office action dated March 9, 2006, claims 2, 11, 20, and 24 were also rejected under 35 U.S.C. §102. Since the Office has not repeated the rejection of claims 2, 11, 20, and 24 under 35 U.S.C. §102, applicants assume that the rejection of these claims under §102 has also been withdrawn.

**Rejection of the Claims Under 35 U.S.C. §103(a)**

Reconsideration is requested of the rejection of claims 1-30 under 35 U.S.C. §103(a) as being unpatentable over Howard, et al. (U.S. Patent No. 6,552,171).

Claim 1 is directed to a wet wipe for improving skin health comprising a wipe substrate and a liquid formulation. The liquid formulation comprises a Yucca species extract and a broad spectrum antimicrobial.

Howard, et al. disclose hydrolyzed jojoba protein and methods for producing hydrolyzed jojoba protein. Also disclosed are cosmetic products, such as shampoos, conditioners, bath and shower gels, and sanitizing wipes, comprising the hydrolyzed jojoba protein. Howard, et al. also disclose a hand lotion and a moisturizing hand cream formulation comprising 0.05% Green Tea Extract and 0.03% Yucca extract.

As stated in MPEP §2143, in order for the Office to show a prima facie case of obviousness, the Office must meet three criteria: (1) the prior art reference(s) must teach or suggest all of the claim limitations; (2) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings; and (3) there must be some reasonable expectation of success.

Initially, applicants note that Howard, et al. do not disclose a wet wipe comprising a wipe substrate and a liquid formulation comprising a Yucca species extract and a broad spectrum antimicrobial. As noted above, the Howard, et al. reference is directed primarily to hydrolyzed jojoba protein and methods for producing hydrolyzed jojoba protein, not compositions and formulations comprising Yucca species extract. In fact, the only disclosure anywhere in Howard, et al. of a Yucca extract is in Tables 6 and 7 of the Examples of Howard, et al., which merely list Yucca extract (and green tea extract) as one ingredient in a list of ingredients that may be used to make hand lotion (Table 6) and moisturizing hand cream (Table 7). This, however, is not a disclosure of a liquid formulation for use with a wet wipe. Howard, et al. thus fail to teach or suggest all the limitations of applicants' claim 1.

Additionally, there is no motivation or suggestion to modify the teachings of Howard, et al. to arrive at applicants' claimed wet wipe. The Office has stated that it would have been obvious to incorporate the Yucca extract containing formulations set forth in Tables 6 and 7 into a wet wipe since Howard, et al.

disclose that jojoba compositions may be used with sanitizing wipes. Applicants respectfully disagree that such motivation exists.

Although Howard, et al. list sanitizing wipes and premoistened towelettes as two types of cosmetic products which may have their hydrolyzed jojoba proteins incorporated therein, there is no disclosure that these wipes also comprise a Yucca species extract and a broad spectrum antimicrobial. In fact, the passage in Howard, et al. referring to sanitizing wipes and premoistened towelettes (see col. 3, ln. 4-13) is specifically referring to cosmetic products into which jojoba protein may be incorporated.<sup>1</sup> This passage says nothing about incorporating a combination of Yucca extract and broad spectrum antimicrobial into such products.

Furthermore, there is no suggestion or motivation to incorporate the formulations set forth in Tables 6 and 7 of Howard, et al. into a wet wipe. In particular, Howard, et al. explicitly state that these formulations are moisturizing hand creams and hand lotions, which are two types of products disclosed therein. There is simply no suggestion in Howard, et al. that these formulations could or should be incorporated into a wet wipe product.

In light of the foregoing, applicants submit that claim 1 is patentable over Howard, et al. Claims 2-9 depend from claim 1 and are thus patentable over Howard, et al. for the same

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<sup>1</sup> "Among the cosmetic products which can benefit from incorporation of the jojoba products of the invention are those selected from the group consisting of..." Howard, et al. at col. 3, ln. 4-6 (emphasis added).

reasons as set forth above for claim 1 as well as for the additional elements they require.

In addition, claim 2 requires the Yucca species extract be selected from the group consisting of Yucca 70 liquid, 100% Yucca Schidigera powder, and 50% Food Grade Yucca powder. Applicants note that Howard, et al. fail to disclose or suggest Yucca 70 liquid, 100% Yucca Schidigera powder, or 50% Food Grade Yucca powder. As noted above, the only mention in Howard, et al. of the use of Yucca is in Tables 6 and 7 of the Examples of Howard, et al., which merely list Yucca extract as one ingredient that may be used to make moisturizing hand cream or hand lotion formulations. There is, however, no disclosure or suggestion that the Yucca extract could or should be Yucca 70 liquid, 100% Yucca Schidigera powder, or 50% Food Grade Yucca powder. Howard, et al. thus fail to teach or suggest this additional limitation.

The Office has stated, without any references, that Howard, et al. do not explicitly teach 100% Yucca schidigera powder, but that it is widely known to use pure powder form from the Yucca schidigera plant and therefore it would have been obvious to use 100% Yucca schidigera powder as taught implicitly by Howard, et al.

As noted above, Howard, et al. merely list Yucca extract as one ingredient in the hand lotion and moisturizing hand cream formulations disclosed therein. There is no disclosure or suggestion of incorporating any particular type of Yucca extract, or more particularly Yucca 70 liquid, 100% Yucca Schidigera powder, or 50% Food Grade Yucca powder, into the hand

lotion or moisturizing hand cream. Applicants note that there are numerous species of Yucca and types of Yucca extracts, but nothing in Howard, et al. that would lead one skilled in the art to choose Yucca schidigera, or more particularly, Yucca 70 liquid, 100% Yucca Schidigera powder, or 50% Food Grade Yucca powder, over any other species of Yucca or types of Yucca extract. As such, claim 2 is patentable for this additional reason.

In addition, claim 6 requires the broad spectrum antimicrobial to be selected from the group consisting of alcohols having from one to about 6 or 7 carbon atoms per molecule, triclosan, triclocarban, p-chloro-m-xlenol, benzalkonium chloride, chlorohexidine gluconate, hexachlorophene, and combinations thereof. Howard, et al. do not disclose or suggest any of these broad spectrum antimicrobials, and thus fail to disclose this additional limitation.

Nor is there any motivation in Howard, et al. for one skilled in the art to incorporate one of the broad spectrum antimicrobials listed in claim 6 into the hand lotion or moisturizing hand cream formulations set forth in Tables 6 and 7 of Howard, et al. As noted above, Howard, et al. is directed primarily to compositions comprising jojoba protein and methods for isolating jojoba protein. There is simply no recognition of the benefits of incorporating a Yucca species extract and a broad spectrum antimicrobial into a wet wipe. As such, there is simply no motivation in Howard, et al. for one skilled in the art to incorporate a Yucca species extract and a broad spectrum

antimicrobial into a wet wipe. Claim 6 is thus patentable over Howard, et al. for this additional reason.

Claim 10 is similar to claim 1, except the liquid formulation comprises a Yucca species extract and a natural broad spectrum antimicrobial. Claim 10 is thus patentable over Howard, et al. for the same reasons as set forth above for claim 1.

Claims 11-18 depend from claim 10 and are thus patentable over Howard, et al. for the same reasons as set forth above for claim 10 as well as for the additional elements they require.

In addition, claim 11, like claim 2 discussed above, requires the Yucca species extract be selected from the group consisting of Yucca 70 liquid, 100% Yucca Schidigera powder, and 50% Food Grade Yucca powder. Claim 11 is thus patentable over Howard, et al. for the same reasons as those set forth above for claim 2.

Claim 19 is directed to a method for improving skin health. The method comprises contacting the skin with a wet wipe capable of reducing the growth rate of Gram negative bacteria and yeast on the surface of the skin while not substantially affecting the growth rate of Gram positive bacteria, the wet wipe comprising a wipe substrate and a liquid formulation, the liquid formulation comprising a Yucca species extract.

Claim 19 is patentable over Howard, et al. for reasons similar to those set forth above for claim 1. In particular, Howard, et al. fail to teach or suggest a wet wipe comprising a liquid formulation that comprises a Yucca species extract, nor

is there any motivation to modify the teachings of Howard, et al. to arrive at such a wipe.

Additionally, applicants note that there is no teaching or suggestion in Howard, et al. of contacting the skin with a wet wipe capable of reducing the growth rate of Gram negative bacteria and yeast on the surface of the skin while not substantially affecting the growth rate of Gram positive bacteria. As noted above, the only disclosure in Howard, et al. of a wipe is on col. 3, ln. 11, which lists sanitizing wipes as one type of cosmetic product into which the jojoba protein may be incorporated. There is, however, no disclosure or suggestion that these wipes be capable of reducing the growth rate of Gram negative bacteria and yeast on the surface of the skin while not substantially affecting the growth rate of Gram positive bacteria. Nor is there any teaching or suggestion that such a wipe should comprise a Yucca species extract. As stated in Tables 6 and 7 of Howard, et al., the Yucca extract is included in the hand lotion and moisturizing hand cream formulations as a stimulant. There is nothing to suggest that Yucca extract has any antimicrobial properties, much less that a wipe incorporating a Yucca extract may be capable of reducing the growth rate of Gram negative bacteria and yeast on the surface of the skin while not substantially affecting the growth rate of Gram positive bacteria. Claim 19 is thus patentable over Howard, et al. for this additional reason.

Claims 20-22 depend from claim 19 and are thus patentable for the same reasons as set forth above for claim 19 as well as for the additional elements they require. In addition, claim

20, like claim 2 discussed above, requires the Yucca species extract be selected from the group consisting of Yucca 70 liquid, 100% Yucca Schidigera powder, and 50% Food Grade Yucca powder. As discussed above with regard to claim 2, there is no disclosure or suggestion in Howard, et al. of any particular type of Yucca extract, or more particularly Yucca 70 liquid, 100% Yucca Schidigera powder, or 50% Food Grade Yucca powder. Howard, et al. thus fail to teach or suggest this additional limitation.

Claim 23 is similar to claim 19, but the liquid formulation further comprises a natural broad spectrum antimicrobial. Claim 23 is thus patentable for the same reasons as set forth above for claim 19 as well as for the additional elements it requires.

Claims 24-30 depend from claim 23 and are thus patentable for the same reasons as set forth above for claim 23 as well as for the additional elements they require. In addition, claim 24, like claim 20 discussed above, requires the Yucca species extract be selected from the group consisting of Yucca 70 liquid, 100% Yucca Schidigera powder, and 50% Food Grade Yucca powder. Claim 23 is patentable over Howard, et al. for the same reasons as set forth above for claim 20.

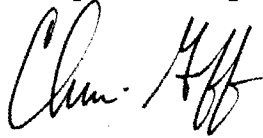


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**CONCLUSION**

In light of the foregoing, applicants request reconsideration of the rejection of claims 1-30 under 35 U.S.C. §103(a) and allowance of all pending claims. The Commissioner is hereby authorized to charge any government fees which may be required to Deposit Account No. 19-1345.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Chris. Goff", is written over the typed name.

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